

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

**Richard Lowery**, on behalf of himself  
and others similarly situated,

Plaintiff,

v.

**Texas A&M University System**, et al.,

Defendants.

CIVIL ACTION NO.  
4:22-cv-3091

JUDGE CHARLES ESKRIDGE

**PLAINTIFF RICHARD LOWERY'S UNOPPOSED MOTION TO  
EXTEND TIME TO RESPOND TO THE DEFENDANTS' MOTION  
TO DISMISS THE FIRST AMENDED COMPLAINT**

On February 10, 2023, the defendants moved to dismiss the first amended complaint. *See* ECF No. 22. The plaintiff's response is currently due on March 3, 2023. The plaintiff respectfully requests a two-week extension, which would move the deadline to Friday, March 17, 2023.

Plaintiff's counsel has made substantial progress on the brief and had hoped to file by the original deadline of March 3. But plaintiff's counsel, Jonathan F. Mitchell, has had a busy schedule over the three weeks that has made it difficult to complete the brief before the current due date. Mr. Mitchell operates as a solo practitioner, and he serves as lead counsel on many cases throughout the country and faced numerous briefing deadlines and court appearances during the past month, many of which could not be moved. Those include:

- An appellate reply brief in *Lilith Fund v. Weldon*, No. 02-22-00413-CV (2nd COA, Texas), which was filed on February 15, 2023.

- Responses to requests for production of documents in *Little v. Llano County*, No. 1:22-cv-00424-RP (W.D. Tex.), which were served on February 20, 2023.
- A response to a petition for mandamus in the Supreme Court of New Mexico in *State ex rel. Torrez v. Board of County Commissioners for Lea County*, et al., No. S-1-SC-39742, which was filed on February 20, 2023.
- An appellate reply brief in the consolidated appeals of *Associated Builders & Contractors of Western Pa. v. Community College of Allegheny*, No. 22-2030, and *Associated Builders & Contractors of Western Pa. v. Plum Borough*, No. 22-2031, which was filed on February 23, 2023.
- A brief responding to evidentiary objections in *In re Maxwell*, No. NO. C2022388 (Hood County, Texas), which is due on March 3, 2023.
- A rebuttal expert witness report in *Little v. Llano County*, No. 1:22-cv-00424-RP (W.D. Tex.), which is due on March 4, 2023.

Mr. Lowery therefore respectfully requests a 14-day extension to complete and file his response to the defendants' motion to dismiss. We have conferred with counsel for the defendants and they are unopposed to this motion.

## CONCLUSION

The motion for extension of time should be granted.

Respectfully submitted.

GENE P. HAMILTON  
Virginia Bar No. 80434  
Vice-President and General Counsel  
America First Legal Foundation  
300 Independence Avenue SE  
Washington, DC 20003  
(202) 964-3721 (phone)

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
Texas Bar No. 24075463  
Mitchell Law PLLC  
111 Congress Avenue, Suite 400  
Austin, Texas 78701  
(512) 686-3940 (phone)  
(512) 686-3941 (fax)

gene.hamilton@aflegal.org

jonathan@mitchell.law

Dated: March 2, 2023

*Counsel for Plaintiff and  
the Proposed Class*

## **CERTIFICATE OF WORD COUNT**

I certify that this motion contains 378 words.

/s/ Jonathan F. Mitchell

JONATHAN F. MITCHELL

*Counsel for Plaintiff and the Proposed Class*

## **CERTIFICATE OF CONFERENCE**

I have conferred with Carter Crow, counsel for the defendants, and he informed me that his clients are unopposed to this motion.

/s/ Jonathan F. Mitchell

JONATHAN F. MITCHELL

*Counsel for Plaintiff and the Proposed Class*

## CERTIFICATE OF SERVICE

I certify that on March 2, 2023, I served this document through CM/ECF upon:

M. CARTER CROW

LAYNE E. KRUSE

PAUL TRAHAN

RYAN MELTZER

JESIKA SILVA BLANCO

1301 McKinney, Suite 5100

Houston, Texas 77010-3095

(713) 651-5151 (phone)

(713) 651-5246 (fax)

carter.crow@nortonrosefulbright.com

layne.kruse@nortonrosefulbright.com

paul.trahan@nortonrosefulbright.com

ryan.meltzer@nortonrosefulbright.com

jesika.blanco@nortonrosefulbright.com

*Counsel for Defendants*

/s/ Jonathan F. Mitchell

JONATHAN F. MITCHELL

*Counsel for Plaintiff and the Proposed Class*